

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

AARON D. SEYMOUR,

Plaintiff,

v.

DOE 1, et al.,

Defendants.

No. 1:22-cv-01146 GSA (PC)

ORDER DIRECTING PLAINTIFF TO SHOW  
CAUSE WHY THIS MATTER SHOULD NOT  
BE DISMISSED FOR FAILURE TO OBEY A  
COURT ORDER AND FOR FAILURE TO  
PROSECUTE

(See ECF Nos. 32, 33, 34)

PLAINTIFF'S SHOWING OF CAUSE OR, IN  
THE ALTERNATIVE, HIS SERVICE OF  
SUPPLEMENTAL DISCOVERY  
RESPONSES ON DEFENDANT DUE IN  
THIRTY DAYS

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. This matter is at the discovery stage of the proceedings. See ECF Nos. 25, 26, 29 (discovery and scheduling order; Defendant's motion to compel, Plaintiff's reply to same).

Before this Court is Defendant's notice of Plaintiff's failure to serve supplemental discovery responses. ECF Nos. 33, 34 (notice and notice of errata). For the reasons stated below, Plaintiff will be ordered to show cause why this matter should not be dismissed for failure to prosecute and for failure to obey a court order. As an alternative to filing the showing of cause,

1 Plaintiff may serve supplemental discovery responses on Defendant. Plaintiff will have thirty  
2 days to take either course of action.

3 I. RELEVANT FACTS

4 On September 18, 2024, the Court issued a discovery and scheduling order. ECF No. 25.  
5 The order directed the close of discovery to be December 6, 2024, and motions to compel to be  
6 filed the same day. Id. at 6. Pretrial motions were to be filed on February 28, 2025. Id.

7 On December 5, 2024, Defendant filed a motion to compel Plaintiff's responses to his  
8 request for production of documents. ECF No. 26. Plaintiff never filed a response to Defendant's  
9 motion. As a result, on January 15, 2025, Defendant filed a reply, giving the Court notice that  
10 Plaintiff had failed to file an opposition to his motion to compel. ECF No. 29. Plaintiff failed to  
11 file a response to the notice or request the Court for an extension of time to do so.

12 On February 20, 2025, Defendant filed a motion for a forty-five-day extension of time to  
13 file a motion for summary judgment. ECF No. 31. On February 22, 2025, the Court signed and  
14 granted in part and denied in part Defendant's motion for an extension of time. ECF No. 32 at 6  
15 (Court signature date). In that order, the Plaintiff was directed to serve supplemental discovery  
16 responses on Defendant and to do so within thirty days. Id. at 6. This made Plaintiff's responses  
17 due on March 24, 2025. Defendant's motion for summary judgment was to be due forty-five  
18 days from the date Plaintiff served the supplemental responses on Defendant. Id.

19 On March 24, 2025, Defendant filed the instant notice of Plaintiff's failure to serve  
20 supplemental discovery responses. ECF No. 33. However, on March 25, 2025 Defendant filed  
21 an Errata stating that on March 24, 2025 Plaintiff filed supplemental discovery responses to  
22 Defendants' Request for Admissions, but that Defendant has still not received supplemental  
23 discovery responses to either Defendant's Requests for Production of Documents or Defendant's  
24 Interrogatory No.7 with verification. To date, Plaintiff has not filed a response to Defendant's  
25 notice, nor to Defendant's Errata. ECF Nos. 33 & 34.

26 II. DISCUSSION

27 It appears that Plaintiff has failed to complete discovery as ordered the first time back in  
28 September 2024, failed to serve the supplemental discovery on Defendant, and failed to file a

1 response to Defendant's notice of failure to serve supplemental discovery responses. Because of  
2 this there now exist grounds for the possible dismissal of this case. However, prior to making this  
3 recommendation, the Court will order Plaintiff to show cause why this matter should not be  
4 dismissed. As an alternative to filing the showing of cause, Plaintiff may serve Defendant with  
5 the supplemental discovery responses as he was ordered to do back in February. Plaintiff will be  
6 given thirty days to take either course of action. Absent exigent circumstances, this will be  
7 Plaintiff's final opportunity to comply with the requirements of discovery and with the Court's  
8 orders.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. Plaintiff is ordered to SHOW CAUSE why this matter should not be dismissed for  
11 failure to obey a court order and failure to prosecute. See ECF Nos. 32, 33, 34;

12 2. Plaintiff's showing of cause or, in the alternative, his service of supplemental  
13 discovery responses on Defendant due in thirty days, and

14 **Plaintiff is cautioned that failure to comply with this order within the time allotted**  
15 **may result in a recommendation that this matter be dismissed.**

16  
17  
18 IT IS SO ORDERED.

19 Dated: April 3, 2025

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE